

May 5, 2004 BZA



REQUEST ANALYSIS  
AND  
RECOMMENDATION

04AN0230

Diane B. and Steve E. Sears

Matoaca Magisterial District  
Vicinity of 12001 Baymill Court

**REQUEST:** A Variance to use a parcel of land which has no public road frontage for dwelling purposes in an Agricultural (A) District.

**RECOMMENDATION**

Recommend denial of this Variance for the following reasons:

- A. Staff finds there are no extraordinary circumstances or conditions applying to this property which do not apply generally to all other properties in the immediate area.
- B. There are no physical surroundings, shape or topographical conditions on this property that a particular hardship would result to the owner if the requirements of the Zoning Ordinance were carried out and a public road constructed to State standards. It appears that this Variance is based principally on financial consideration.

**GENERAL INFORMATION**

**Location:**

This request lies on seven (7) acres located approximately 370 feet northeast of the terminus of Baymill Court, measured from a point approximately 850 feet northeast of Hillcreek Drive in the vicinity of 12001 Baymill Court. Tax ID 740-670-Part of 7288. Access will be across Tax ID 739-671-Part of 4558 and 741-670-Part of 2154 (Sheet 16).

Existing Zoning:

A

Size:

Seven acres

Existing Land Use:

Residential

Adjacent Zoning and Land Use:

North - A and R-9; Residential and semi-public (school)  
South - A and R-12; Residential and vacant  
East - A, R-9 and R-12; Residential and semi-public (school)  
West - A and R-12; Residential and vacant

Utilities:

Public water and sewer

Transportation:

This request requires the dedication and construction of a public road.

Environmental Engineering:

The existing addresses are Belcherwood Road and depending on the access there may be an addressing problem that would necessitate an address change. This will be addressed at time of issuance of the building permit and the vicinity sketch submitted with the building permit. The sketch must show the primary location of access.

General Plan:

(Southern and Western Area Plan)

Residential  
(1- 5 acre lots)

DISCUSSION

The applicants request a Variance to use a parcel of land which has no public road frontage for dwelling purposes. The access to the dwelling will be over open space from Point A to Point B and a private easement from Point B to Point C, as shown on the attached map.

The applicants provide the following justification in support of this request:

We would like to divide approximately 17.5 acres into two (2) approximately equal parcels for private residences for my daughter and myself.

The Board of Zoning Appeals hears requests for no public road frontage when the subject property was recorded prior to 1980, is being subdivided and sold or given to a member of the property owner's immediate family or complies with the plat validation process. In this case, the property was recorded prior to 1980.

Staff has reviewed the attached plans and application. Staff notes the applicant, Steve E. Sears requested a Variance to use a parcel of land which has no public road frontage on January 2, 1985. The Board of Zoning Appeals approved this Variance which is part of the subject property.

Staff visited the property and observed that the subject property has a dwelling on it from a previously approved Variance. Staff also observed the roadway to the subject property is approximately ten (10) to twelve (12) feet in width and in good condition.

The Chesterfield County Fire Department has requested that applicants with this type of request provide a fifteen (15) foot wide, all-weather road from the State maintained road to the dwelling capable of supporting fire equipment and/or ambulances. The road shall have at least a fourteen (14) foot clearance to overhanging objects.

If the Board feels this request has merit, staff recommends that the entire roadway be improved and widened to fifteen (15) feet per attached Conditions 2 and 3 because of the Fire Department's request and potential two (2) way traffic.

Regulations, such as public road frontage, were established with reasonable consideration of the character of the County with a view toward conserving the value of building upon the land and providing the best possible environment for human habitation. Sporadic development, such as this, may hinder future development potential in this area. Subdivision development may be limited on adjacent parcels. Further, this Variance, if granted, will continue development in this area that will be lacking the necessary infrastructure to ensure the public health, safety and welfare.

Parcels that comply with the road frontage requirement of the Zoning Ordinance and are therefore, in the State system, enjoy State maintenance. The burden of maintaining a State road does not rest on an individual property owner. Public funds are used to build and maintain State roads. By granting this Variance the responsibility of constructing and maintaining the access road becomes the applicants. Staff believes that the access road may not be maintained to the same standards as the public roads. Public funds provide the Virginia Department of Transportation with the resources to efficiently and effectively maintain the public roads. Staff believes that individual maintenance of the access road is impractical to provide for public and private vehicle access.

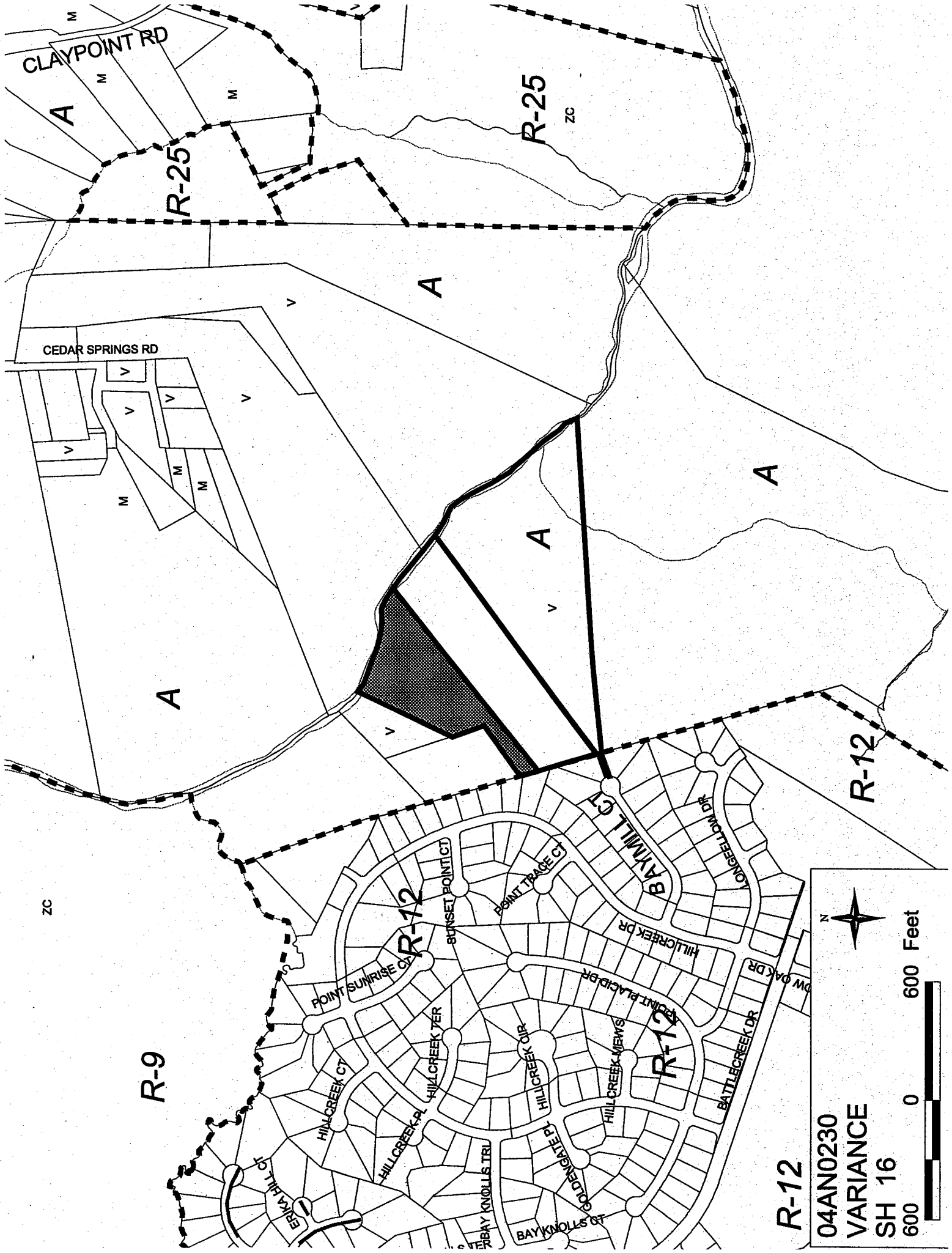
Additionally, staff believes that the access road may not be maintained with the regularity of a public road. Therefore, staff cannot support this request.

However, if the Board feels that this request has merit, staff recommends that it be subject to the following conditions:

### CONDITIONS

1. When the applicant applies for a building permit, the applicant shall provide a copy of a recorded instrument which will include the following:
  - a) A thirty (30) foot wide private access easement from Point A to Point C as shown on the plat attached to the staff report. The instrument shall require that no structure or fence shall be constructed to block the easement and shall require the land owner of the subject parcel to be responsible for maintenance of the access in accordance with the standards set forth below, or
  - b) If the access involves the use of a dedicated and unimproved County right of way, the applicant shall provide a copy of the approved license agreement with the County.
2. Within the thirty (30) wide private access easement or right of way, a fifteen (15) foot wide roadway shall be constructed and maintained. Prior to issuing a Certificate of Occupancy, the Planning Department and if required, the Fire Department, shall inspect this roadway to determine its compliance with the following standards:
  - a) The roadway shall consist of no less than the following: compacted soil subbase with six (6) inches of compacted 21-B crushed stone. If an asphalt based surface is to be applied, it shall be designed and constructed to Chesterfield County subdivision street requirements or an equivalent design approved by the subdivision team, capable of supporting the projected 75,000 pound vehicle weight. The roadway shall not be approved if it is rutted or potholed and shall be maintained to this standard.
  - b) There shall be an additional three (3) foot clear area beyond the edge of the roadway.
  - c) There shall be a minimum vertical clearance of fourteen (14) feet of area above the roadway.
  - d) The roadway shall have a maximum grade of ten (10) percent with an appropriate transition at the street connection, unless otherwise approved by the Fire Department.
  - e) The minimum inside turning radius for any curve shall be twenty-seven (27) feet.

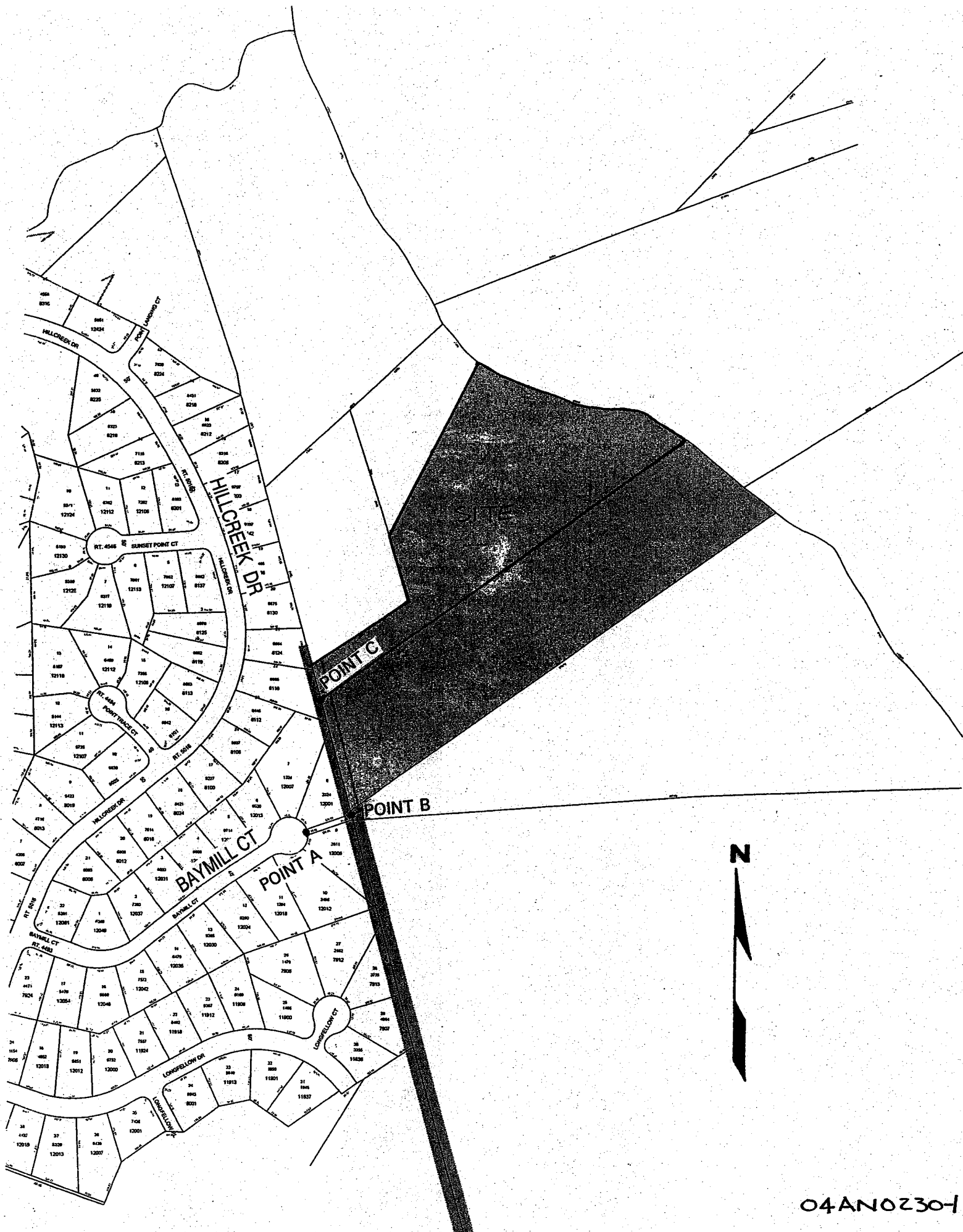
- f) Any cross drains shall be designed to accommodate a minimum ten (10) year storm.
- 3. The County shall not issue a Certificate of Occupancy for any structure which is located on a roadway not meeting Condition 2 a-f.
- 4. The house number shall be installed on the mailbox or a pole and located at the driveway entrance of the State maintained road as well as at the driveway entrance to the property. The house numbers shall be displayed in at least four (4) inch high numbers.
- 5. This property shall not be further subdivided, including any family subdivisions, unless public road frontage is provided.



0 600 Feet

04AN0230  
VARIANCE  
SH 16  
600

R-12



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